

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Rhonda Fleming, Plaintiff, v. United States Department of Justice, et al., Defendants.	Case No. 0:19-cv-2713-SRN-KMM ORDER
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Rhonda Fleming, Reg. No. 20446-009, FCI-Dublin, 5701 8th Street, Dublin, CA 94568, Pro Se.

Gregory G. Brooker, United States Attorney's Office, 300 S. 4th St., Ste. 600, Minneapolis, MN 55415, for Defendants.

SUSAN RICHARD NELSON, United States District Judge

This matter is before the Court on Plaintiff Rhonda Fleming's second Motion to Reopen the Case. (Second Mot. to Reopen [Doc. No. 79].) For the reasons set forth below, the motion is denied.

On March 26, 2020, the Court dismissed this action without prejudice, and dismissed all defendants except Lieutenant Riehm and Six Unknown BOP Correctional Officers at FCI-Waseca. (Mar. 26, 2020 Order [Doc. No. 72] at 7–8.) As noted in the Order, Fleming sought in forma pauperis ("IFP") status, but ran afoul of 28 U.S.C. § 1915(g). (*Id.* at 4–6.) Under § 1915(g), a prisoner is precluded from obtaining IFP status when bringing a civil action or appealing a judgment in a civil action if the prisoner has

previously filed three or more civil lawsuits, while incarcerated or detained, that were dismissed as frivolous, malicious, or for failure to state a claim on which relief may be granted. (*Id.*) (citing 19 U.S.C. § 1915(g)). The Court determined that Fleming failed to meet the exception to § 1915(g), which permits a prisoner to avoid the three-strikes rule if the prisoner shows that he or she is under imminent danger of serious physical injury. (*Id.*) Accordingly, the Court found that Fleming was ineligible for IFP status. (*Id.* at 6.) Because she had failed to pay the filing fee applicable to civil actions filed in this District, the Court dismissed her lawsuit without prejudice for failure to prosecute. (*Id.* at 5–6.)

Fleming first moved the Court to reopen the case on June 12, 2020 [Doc. No. 76] in light of the death of George Floyd in Minneapolis. The Court denied her motion. (Order on Motion to Reopen Case [Doc. No. 78].)

Fleming now moves the Court to reopen her case, this time in light of a putative class action lawsuit filed on behalf of other women at FCI-Dublin, where she is currently housed. (Second Mot. to Reopen at 1.) The lawsuit alleges a pattern of sexual abuse, harassment, and retaliation against inmates committed by employees of FCI-Dublin. *Id.* Fleming states that because she spoke with the FBI about the lawsuit, one correctional officer threatened her with denial of food, and she fears future retaliation. *Id.* Fleming argues that this abuse occurs at every BOP facility and is a national problem. Fleming requests that the Court reinstate her IFP status, appoint counsel, allow her to amend her complaint, and transfer venue to the United States District Court for the District of Columbia. *Id.* at 2.

As the Court has stated previously, Fleming has not shown that an exception to § 1915(g) applies, and she has failed to pay the civil filing fee. § 1915(g) requires that the conduct alleged in the complaint threatens continuing or future injury. *Martin v. Shelton*, 319 F.3d 1048, 1050 (8th Cir. 2003). As the Court noted previously, Fleming has no reason to fear injury from Defendants at a facility from which she has long since been absent, and it is not enough for her to assert a generalized sense of danger from unrelated persons at other facilities. (Mar. 26, 2020 Order at 6.) For § 1915(g) to apply, there must be a nexus between the imminent danger asserted now and the claims alleged in the pleading. *See Pettus v. Morgenthau*, 554 F.3d 293, 298 (2d Cir. 2009). Further, while the Court is mindful of the serious nature of allegations raised by other inmates around the country, those allegations do not create a legal basis for reopening Fleming's lawsuit or granting the other relief she requests.

Based on all of the foregoing, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Second Motion to Reopen the Case [Doc. No. 79] is **DENIED**.

Dated: September 22, 2023

/s/ Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge